## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

Anthony C Medina, : Civil Action No.: 5:21-cv-480

Plaintiff,

v.

Convergent Outsourcing, Inc., COMPLAINT

Defendant.

For this Complaint, the Plaintiff, Anthony C Medina, by undersigned counsel, states as follows:

#### **JURISDICTION**

- 1. This action arises out of the Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA"), and the invasions of the Plaintiff's personal privacy by the Defendant in their illegal efforts to collect a consumer debt.
  - 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
- 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

#### **PARTIES**

4. The Plaintiff, Anthony C Medina ("Plaintiff"), is an adult individual residing in San Antonio, Texas, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

The Defendant, Convergent Outsourcing, Inc. ("Convergent"), is a Washington business entity with an address of 800 SW 39th Street, Renton, Washington 98057, operating as a

collection agency, and is a "debt collector" as the term is defined by 15 U.S.C. § 1692a(6).

## **ALLEGATIONS APPLICABLE TO ALL COUNTS**

#### A. The Debt

- 5. The Plaintiff allegedly incurred a financial obligation (the "Debt") to an original creditor (the "Creditor").
- 6. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a "debt" under 15 U.S.C. § 1692a(5).
- 7. The Debt was purchased, assigned or transferred to Convergent for collection, or Convergent was employed by the Creditor to collect the Debt.
- 8. The Defendant attempted to collect the Debt and, as such, engaged in "communications" as defined in 15 U.S.C. § 1692a(2).

#### B. Convergent Engages in Harassment and Abusive Tactics

- 9. Within the last year, Convergent began calling Plaintiff in an attempt to collect the Debt.
- 10. In early March 2021, Plaintiff told Convergent that he could not take calls while at work and requested that no calls be placed to him before 5 pm.
  - 11. Convergent assured Plaintiff that it would schedule the calls after 5 pm.
- 12. Thereafter, Convergent continued to call Plaintiff at all hours during the day, causing inconvenience and frustration to Plaintiff.

#### C. Plaintiff Suffered Actual Damages

13. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendant's unlawful conduct.

14. As a direct consequence of the Defendant's acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

#### **COUNT I**

# VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.

- 15. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
- 16. The Defendant's conduct violated 15 U.S.C. § 1692c(a)(1) in that Defendant contacted the Plaintiff at a place and during a time known to be inconvenient for the Plaintiff.
- 17. The Defendant's conduct violated 15 U.S.C. § 1692d in that Defendant engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.
- 18. The Defendant's conduct violated 15 U.S.C. § 1692d(5) in that Defendant caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass.
- 19. The Defendant's conduct violated 15 U.S.C. § 1692e in that Defendant used false, deceptive, or misleading representation or means in connection with the collection of a debt.
- 20. The Defendant's conduct violated 15 U.S.C. § 1692e(10) in that Defendant employed false and deceptive means to collect a debt.
- 21. The Defendant's conduct violated 15 U.S.C. § 1692f in that Defendant used unfair and unconscionable means to collect a debt.
- 22. The foregoing acts and omissions of the Defendant constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.
  - 23. The Plaintiff is entitled to damages as a result of Defendant's violations.

#### **COUNT II**

# VIOLATIONS OF THE TEXAS DEBT COLLECTION ACT TEX. FIN. CODE ANN. § 392, et al.

- 24. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
  - 25. The Plaintiff is a "consumer" as defined by Tex. Fin. Code Ann. § 392.001(1).
- 26. The Defendant is a "debt collector" and a "third party debt collector" as defined by Tex. Fin. Code Ann. § 392.001(6) and (7).
- 27. The Defendant caused a telephone to ring repeatedly, with the intent to annoy or abuse the Plaintiff, in violation of Tex. Fin. Code Ann. § 392.302(4).
- 28. The Plaintiff is entitled to injunctive relief and actual damages pursuant to Tex. Fin. Code Ann. § 392.403(a)(1) and (2) and to remedies under Tex. Bus. & Comm. Code § 17.62 pursuant to Tex. Fin. Code Ann. § 392.404(a).

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that judgment be entered against the Defendant:

- 1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendant;
- 2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against the Defendant;
- 3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C.§ 1692k(a)(3) against the Defendant;
- 4. Injunctive relief pursuant to Tex. Fin. Code Ann. § 392.403(a)(1);
- 5. Actual damages pursuant to Tex. Fin. Code Ann. § 392.403(a)(2);
- 6. Remedies under Tex. Bus. & Comm. Code § 17.62 pursuant to Tex. Fin.

Code Ann. § 392.404(a);

- 7. Actual damages from the Defendant for the all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial for the Plaintiff;
- 8. Punitive damages; and
- 9. Such other and further relief as may be just and proper.

#### TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: May 20, 2021

Respectfully submitted,

By: <u>/s/ Sergei Lemberg</u>

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